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Reviewed

INSPECTOR GENERAL

77-1204

3 JUN 1977

Executive Order

77-4487

MEMORANDUM FOR: Deputy Director of Central Intelligence

FROM : John H. Waller  
Inspector General

SUBJECT : Public Release of Information from CIA

1. Last January, you expressed concern that the Agency's arrangements for responding to public requests for information (principally through the Freedom of Information Act) might be inadequate and that the Agency may be releasing too much information needlessly. We were asked to look into the matter. We have reviewed the Agency's standards, procedures, and practices concerning the official release of information to the public with the principal Agency components involved and have concluded that:

a. The Agency is generally in compliance with the Freedom of Information Act (FOIA) and the Privacy Act with the obvious exception that it cannot meet the short deadlines for responses to FOIA requests.

b. While the Agency has released massive amounts of information into the public domain during the past two years, this does not seem to have resulted in any significant loss of intelligence capabilities so far. However, these releases have resulted in concern and loss of confidence by certain foreign liaison and private American sources in the Agency's ability to protect the confidentiality of relationships with the Agency.

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c. The Agency does not have a central-record of the information released to the public, nor is a single office given authority to make policy for release of material or charged with responsibility for assessing the effect of releases. As a result the Agency is not organized to know the impact of the releases that have been made, as a basis for how to improve the practices to be followed.

d. There is a need for greater clarity and consistency in our policies and standards for both the classification and declassification of intelligence information. It makes little sense to classify information one year and declassify the same information the next (except, of course, for purely time-sensitive matters).

e. There is a basic anomaly in making information about a nation's clandestine intelligence organization public. No other nation does this and it is inherently destructive to the long term maintenance of this country's foreign intelligence effort. With due regard for the need to deal with abuses and illegalities, I believe there is room within the scope of present law to tighten our practices on information release related to intelligence sources and methods as such, while carrying out the Director's policy of making the results of intelligence analysis more available to the public.

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2. The recommendations in our attached report would act on these conclusions. They call for a central record of information releases, a central review group that would develop release policies and assess damage, development of better guidelines for classification and declassification, relief from the timely response demands of FOIA, and stricter standards for the release of information related to intelligence sources and methods. Some of these recommendations are already before the EAG and their adoption would be consistent with our conclusions and recommendations. I believe that most of these actions could be carried out under the supervision of your Special Assistant, [redacted] with appropriate support from the Directorates. These responsibilities would be logical and consistent additions to those assigned to him in Headquarters Notice [redacted]

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John H. Waller

Attachment

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OFFICE OF THE INSPECTOR GENERAL  
STUDY OF THE OFFICIAL RELEASE OF CIA  
INFORMATION TO THE PUBLIC

June 1977

SCOPE

1. This report reviews the standards, policies, organization, and practices of the Central Intelligence Agency regarding the official release of information to the public. It addresses concerns that the Agency may be releasing too much information in response to Freedom of Information Act requests, that arrangements for handling requests for information may be inadequate, and that the cumulative effect of information releases may have serious long term implications. The study does not cover the unauthorized release of information, whether through leaks from within or outside the Agency or as a result of espionage or poor security practices. Nor does this study cover the authorized release of classified information to other government agencies, the Congress, the courts, or foreign governments.

BACKGROUND

2. This study was conducted at the request of the Deputy Director of Central Intelligence. The inspection team developed the factual information, conclusions, and recommendations as a result of interviewing approximately 75 Agency officers in the Agency components principally involved, as well as reviewing component files, documents, and records systems. Documents associated with this study are footnoted in the text, listed in Tab F, and are bound separately.

CONCLUSIONS

3. The conclusions described in the following paragraphs respond to the concerns described above. They attempt to address what we

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consider to be the more important aspects of what is recognized to be a large and complex problem. We appreciate that some of the recommendations that stem from these conclusions may be expensive and difficult to carry out, but it should be realized that the Agency is currently expending considerable resources on this activity. We see no relief from these demands for information and, consequently, believe that the Agency must develop effective long term solutions.

4. With respect to the release of information, the following conclusions apply:

a. There is a great deal of intelligence information and information about the Agency being released to the public. Some is required by law, judicial rule, or Congressional demand; much is released in accord with the Director's intent to put as much intelligence analysis as possible into the public domain. These releases are made by various components independently with extensive coordination conducted on individual requests. The lack of a central review and record results in the Agency not really knowing what it has released on a given topic, what actual or potential damage to intelligence capabilities has been or might be caused by past or proposed releases, and what criteria has or should be applied for future releases.

b. We agree with the widespread view that some form of Agency-wide central review of information release is required. The proposal submitted to the EAG on 1 April to create such a review group is sound. In our view, this group should be responsible for policy review of all information releases, the development of

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a proper and consistent policy for both classification and declassification of intelligence information, the initial review of significant new requests with OGC, as well as the spotting of requests and releases of high flap potential.

For a more detailed discussion of this topic, see Tab A.

5. Concerning the need for improvements in the Agency's records on information releases, the following conclusions apply:

a. The Agency's present system of decentralized record-keeping on information releases is, in itself, expensive and inefficient. It precludes any serious attempt at damage assessment of cumulative or aggregate releases and does not allow for consistent application of standards for information release. Current efforts to improve component computer records do not provide adequately for a capability to review all information previously released and would not permit various components to cease maintaining duplicative records. Only by establishing a comprehensive central record of information releases can the Agency forego the expense of continuing and improving its present array of files and retrieval systems. With the 30-year review of Agency documents about to be added to this problem, there is some urgency in considering this matter.

b. We have found general agreement throughout the Agency with this conclusion and have been assured that such a central record would be used as a basis for judgment on future releases and could replace most of the present component records.

c. A central, comprehensive, retrievable record of all previously classified information released to the public should be

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established as a priority matter. To mitigate the cost involved, such a record should be capable of supplanting most of the record systems on information releases presently maintained by Agency components. Such a system should permit retrieval of requests for information; actions taken; a record of files researched; documents denied, declassified and sanitized (in both their original and sanitized versions); following actions (including appeals, litigation, and coordination with other agencies) and some degree of retrievability of released information by topic. For a more detailed discussion, see Tab B.

6. On the need for improved standards for classification and declassification, the following conclusions apply:

a. The automatic downgrading timetable of EO 11652 is by-passed as a result of the Agency's wholesale invocation of the exemption authority. This:

(1) Ensures indefinite continuation of a monumental task if the Agency is to comply with the mandatory 30-year review of all classified documents.

(2) Ensures a continuing full review for declassification of all documents involved in FOIA and Privacy requests, regardless of how innocuous the material may be by the time it is five to ten years old.

b. Better guidelines for classifying national security and intelligence sources and methods information would enable CIA to better justify the denial from public release of truly classified information. For example, there is no Agency-wide definition of "intelligence sources and methods" even though it

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is widely used as a primary justification for classifying information, exempting it from downgrading, and withholding information from public release.

c. The Agency's lack, now and in the past, of consistent classification standards vastly complicates the establishment of a credible, consistent, and effective system of declassification.

d. Classification and declassification are two sides of the same problem and there should be a direct linkage between the policies and practices of declassification and the policies and practices of classification. Consequently, the Agency should develop a single consistent set of standards for classifying and declassifying information. We recognize that this could be a difficult process which might involve a revision of EO 11652 as well as extensive coordination within the Intelligence Community. The major interim step in this direction, which we recommend, is to develop effective guidelines for Agency-wide use for denial or approval of requests to downgrade, declassify and release information to the public. Development of such guidelines is essential if the Agency is to do a credible job of protecting or releasing, as appropriate, a 30-year collection of files. Furthermore, these guidelines are inextricably linked to the establishment of credible and consistent system of classification.

For a more detailed discussion, see Tab C.

7. With respect to the issue of compliance with law, we have attempted to address only what seemed to us to be the most important aspects of a very complex legal topic. We conclude that:

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a. The Agency is making a major effort to comply with the letter and spirit of the Privacy Act, the Freedom of Information Act, the National Security Act of 1947 and EO 11652 with respect to release of information to the public.

b. The timely response requirements of FOIA make unreasonable demands on the Agency, have caused needless law suits and unfavorable publicity, and provide a means of harassment by those critical of the Agency. Legislative relief from the more demanding response time requirements would allow the Agency to more nearly meet FOIA requirements without greatly increased resources.

c. The EO 11652 requirement to notify every holder of every document that has been downgraded or declassified is impractical. We believe, however, that a central record of downgrading and declassification actions is necessary to comply and to permit the use of previous downgrading and declassification actions in the review of information for public release.

d. There is an urgent need for legislative relief to provide for more reasonable deadlines for FOIA requests. We recognize that this matter has already been taken up with the Congress.

For a more detailed discussion, see Tab D.

8. Concerning the effect of information releases on the Agency, we conclude that:

a. Since the Agency does not have a central record of information released to the public and no one is charged with examining the cumulative effect of information releases, the question of the effect of cumulative releases is moot. However, these releases appear not to have had major and conspicuous adverse effects on

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intelligence operations or foreign relations so far and may have had some positive public relation's value.

b. There are, however, serious, long-range consequences in store for the Agency's clandestine intelligence activities should release of information on its methodology, capabilities, organization, and personalities and the inability or disinclination to protect this activity from public exposure continue on the same scale as in the past two years. These consequences may be avoidable if there are clearer standards set for the future release of information which are in any way related to clandestine intelligence activities. This in no way obviates Congressional or judicial requirements for information related to allegations of wrongdoing, but does suggest that there is room within the present exemptions in the FOIA and Privacy Act for stricter standards.

For a more detailed discussion of this topic, see Tab E.

#### RECOMMENDATIONS

9. We recommend that:

a. The DDCI establish a central review group in his Office which will include policy review over all information releases, the development of a proper and consistent policy for both classification and declassification of intelligence information, and the initial review with OGC of significant new requests for information.

b. The DDCI direct the central review group to establish a central, comprehensive, retirevable record of all previously classified information released to the public.

c. The DDCI direct the central review group to develop

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of requests to downgrade, declassify, and release information to the public. Additionally, this group should develop a single consistent set of standards for classifying and declassifying information on intelligence sources and methods.

d. The Legislative Counsel, on an urgent basis, press for legislative relief to provide for more reasonable deadlines for FOIA requests.

*How* [ e. The DDCI direct the central review group to develop a stricter policy, within the law, regarding the release of information related to clandestine intelligence activities.

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TAB A

RELEASE OF INFORMATION TO THE PUBLIC FROM CIA COMPONENTSFINDINGS:

1. A very considerable amount of information about CIA activities and CIA's intelligence judgments is being released into the public domain. Much of the information about CIA activities has been released as a result of court orders in connection with suits against the Agency, Congressional investigations, or the requirements of the Freedom of Information Act and the Privacy Act. In addition, a great deal of information is released as a result of unclassified information gathering, such as  reporting, or declassified finished intelligence. This is in accordance with the Director's policy of placing as much foreign intelligence analysis as is practicable into the public domain. We did not find any meaningful measure of the volume released since records are kept by components on a basis of requests and approvals rather than the volume released. While information released at the Agency's initiative tended to be current (finished foreign intelligence analysis or unclassified information), information released publicly about Agency activities as a result of request, Congressional query, or court order tends to be historical and principally associated with allegations of past Agency misdeeds.

2. The following paragraphs describe briefly the major Agency components that release information and the kinds of information released. No attempt is made here to exhaustively describe the rules, practices and procedures of each component releasing information as, for the most part, such information is contained in the Agency regulations cited.

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We observed no instance where a component was significantly deviating from the provisions of the Agency regulation governing that type of release.

3. The most active component in releasing information is the Information and Privacy Staff (IPS) in the Administration Directorate. This staff is responsible for the release of information under the provisions of the Freedom of Information Act (FOIA),<sup>1</sup> the Privacy Act of 1974 (PA),<sup>2</sup> and Executive Order 11652.<sup>3</sup> Headquarters Notices (HN)

25X1A [ ] establishes the authority of the IPS. HN [ ] and

25X1A HN [ ] describe Agency requirements and procedures for implementing the FOIA and PA respectively. Headquarters Regulation (HR) [ ]

describes the requirements and procedures for release of information under FOIA and EO 11652. These procedures are being consolidated in a proposed Headquarters Handbook [ ] In brief, IPS serves as the

25X1A Agency focal point for receiving, processing and release resulting from FOIA, PA and 11652 requests for information. IPS negotiates with the requester, where necessary, and passes requests to appropriate components for a file search. Components search their files for relevant documents, determine releaseability in accordance with legal exemptions, coordinate with other components as required and pass the responses to IPS with recommended exemptions from release -- exemptions usually related to the protection of information on intelligence sources and methods. IPS records and passes on the Agency response to the requester. Appeals by requesters to Agency PA responses are handled by a Deputy Director. Appeals to FOIA or EO 11652 responses are handled by the CIA Information Review Committee, which is composed of the Deputy Directors, the D/DCI/NI,

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and the D/DCI/IC. Legal counsel and assistance on FOIA and PA suits is provided by the Office of the General Counsel.

4. This activity has had a major impact on Agency resources. During 1975, the Agency received 7,393 FOIA, PA, and EO 11652 requests; during 1976, it received 4,492. For 1976, the Agency conservatively estimated the cost of responding to these requests to be of about 100 manyears and \$1.7 million.<sup>9</sup>

5. While we found general approval for the manner in which IPS has carried out its difficult and seemingly thankless task, there were two points of concern about the IPS role that bear mention here:

a. Many components felt that there is insufficient feedback from IPS on exactly what information was finally provided to a requester as distinct from the component's recommendations on release and, when faced with a new request, what information on the same or related topic had already been released. This concern is related to the recordkeeping problem discussed in Tab B.

b. When faced with the vast and "unreasonable" request that would require a major search effort, some components felt that IPS should make a greater effort (with OGC assistance) to narrow the search requirement to manageable proportions rather than (in their view) pass the search requirement on to components who are then faced with a considerable effort just to identify the resource impact of responding to the request.<sup>10</sup> We found that this concern is coupled to the widely perceived need for a central review group.

6. Because of the numerous law suits pending against the Agency as well as prosecutions initiated by the Agency, the Office of General

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Counsel (OGC) is required to furnish considerable information about Agency activities to judges and prosecuting and defense attorneys. In certain cases, this information is declassified and becomes a matter of public record, but in many cases, unsanitized, classified information is provided for judicial proceedings under circumstances where the Agency may not have complete control over its public releasability. It is not our purpose here to go into the legal intricacies, but merely to note that court proceedings have caused the Agency to release considerable information, including sensitive operational information, about its activities. As in the case of IPS, some Agency components are concerned that OGC does not keep them fully informed on exactly what information has been or is to be released to court proceedings so that components can make consistent and informed judgments about future releases. While OGC does conduct extensive coordination with components on releasability of classified information, the lack of a central and easily retrievable record of what information has been previously released has resulted in some confusion and inconsistencies.

7. The Agency has long had a policy of providing officially released information to the press and the public through various public relations activities -- briefings, speeches, unclassified publications, etc. This policy has recently been given increased impetus by the new Director and by his Public Affairs Office. All public presentations are to be approved and recorded with the Assistant for Public Affairs to the DCI in accordance with

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These presentations include background briefings to the press (some 200 in 1976), public speeches by senior Agency officials, general

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briefings on the Agency by the Office of Training and discussions with various seminar groups such as Brookings Institute-sponsored conferences.<sup>12</sup>

8. The analytic components of the Intelligence Directorate have active programs for releasing unclassified or declassified intelligence analysis into the public domain. This is accomplished by direct release of reports to component contacts in the academic and business communities; by general release through the Library of Congress DOCEX program, the Government Printing Office, or the Department of Commerce's National Technical Information Service; and through the office of the Coordinator of Academic Relations to selected contacts. [REDACTED]

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9. The Office of the Legislative Counsel (OLC) responds to Congressional requests for specific information on both a classified and unclassified basis. Many reports are on behalf of constituents and these are usually sent to IPS to be processed as FOIA or PA requests. Additionally, OLC furnished Agency information to Congressional committees on both a classified and unclassified basis. Substantive intelligence briefings conducted by the Congressional Support Staff in the Intelligence Directorate is coordinated with OLC. Information furnished to Congress by OLC is coordinated with Agency components prior to its release and OLC does maintain a detailed record of releases.<sup>14</sup>

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10. The Director of Equal Employment Opportunity is required by HR [REDACTED] to submit various reports on EEO activities in the Agency and EEO complaints to the Civil Service Commission. Much of this information

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must be in an unclassified form, although there are some provisions for handling EEO complaints involving cover personnel in a classified manner.

11. CIA employees frequently write books and articles for unofficial publication on such topics of interest to the Agency as foreign relations, international economics, autobiographies, spy fiction, etc. These are cleared with the Agency's Publications Review Board in accordance with

25X1A H  While these do not constitute official releases in a strict sense, they are often considered to be officially sanctioned if they discuss intelligence matters and have been construed by some as a precedence for the official release of otherwise classified information.

CONCLUSIONS:

12. There is a great deal of intelligence information and information about the Agency being released to the public. Some is required by law, judicial rule, or Congressional demand; much is released in accord with the Director's intent to put as much intelligence analysis as possible into the public domain. These releases are made by various components independently, as discussed above, with extensive coordination conducted on individual requests. The lack of a central review and record results in the Agency not really knowing what it has released on a given topic, what actual or potential damage to intelligence capabilities has been or might be caused by past or proposed releases, and what criteria has or should be applied for future releases. While the adverse impact of our present practices has not been sharply demonstrated so far (see Tab E), the potential exists for significant damage to U.S. intelligence as a result of official releases. This tends to compound the impact of unauthorized releases such as leaks, foreign espionage, poor security practices.

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13. We agree with the widespread view that some form of Agency-wide central review of information release is required. The proposal<sup>17</sup> submitted to the EAG on 1 April to create such a review group is sound. In our view, this group should be responsible for policy review of all information releases, the development of a proper and consistent policy for both classification and declassification of intelligence information, the initial review of significant new requests with OGC, as well as the spotting of requests and releases of high flap potential.

RECOMMENDATION:

14. That the DDCI establish a central review group in his Office which will include policy review over all information releases, the development of a proper and consistent policy for both classification and declassification of intelligence information and the initial review with OGC of significant new requests for information.

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TAB B

RECORDKEEPING ON INFORMATION RELEASES

FINDINGS

1. An essential feature of any systematic approach to the release of information would be a record of requests for information, actions taken to respond to such requests, and what information had been reviewed and released or denied. We found, however, that CIA records on requests and releases are kept independently by the components concerned. There is no central record of all information releases and the records that do exist differ in the kinds of information they contain.

2. Without going into a detailed description of what information is contained in each components' record on public release, each major component involved in information release keeps a record of requests and releases which they believe to be adequate to their responsibilities. Some components keep only the sanitized unclassified items that are finally released; some keep the original documents; some keep both. Some index information by subject, some by document number, some by both. Some records are manual, some are in computers. Some record each document released, some record groups of documents. Generally, these records are not compatible or interconnected. A determined search for what information has been released on a given topic requires a search of the files of numerous Agency components with no absolute assurance that all relevant files have been examined.

3. Agency components generally are keeping their own file of requests and responses to IPS, OLC, OGC, A/PA/DCI and other Agency-level requesters of information for public release because of their lack of

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of confidence in their ability to recover necessary information from some central point when faced with a new request on the same or similar topic.<sup>18</sup> Almost all of those interviewed have said that they probably would not need to keep their presently extensive records if an adequate and retrievable central file existed. This is not to fault components for developing their own records or to record only such information as they specifically require. Indeed, it appears that, without a central file they had no choice.

4. The lack of an easily retrievable central record of release information has forced Agency components to rely on their memory of past releases and on the information contained in documents retrieved from each request, rather than on a review of past releases on the same topic as a basis for judging the releasability of information responsive to each request. This has prevented the examination of the cumulative effects of information releases and has led to inconsistencies which have occasionally been embarrassing or have resulted in the accidental release of sensitive information.

5. Various proposals have been made to Agency management to create some sort of central record of information releases.<sup>17, 19</sup> Differing concepts of information retrieval and high costs have loomed large in delaying decisions. While we have not tried to identify alternative costs, it is evident that the present practice of each component maintaining records that are largely duplicative of Directorate and Agency-level (IPS, OGC, A/PA/DCI, etc.) record systems is expensive. The Agency's present effort is to continue to improve individual component record systems in lieu of establishing a central record.<sup>20</sup>

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CONCLUSIONS

6. The Agency's present system of decentralized recordkeeping on information releases is, in itself, expensive and inefficient. It precludes any serious attempt at damage assessment of cumulative or aggregate releases and does not allow for consistent application of standards for information release. Current efforts to improve component computer records do not provide adequately for a capability to review all information previously released on a given subject and will not permit various components to cease maintaining duplicative records. Only by establishing a comprehensive central record of information releases can the Agency forego the expense of continuing and improving its present array of files and retrieval systems. With the 30-year review of Agency documents about to be added to this problem, there is some urgency in considering this matter.

7. We have found general agreement throughout the Agency with this conclusion and have been assured that such a central record would be used as a basis for judgment on future releases and could replace most of the present component records.

8. A central, comprehensive, retrievable record of all previously classified information released to the public should be established as a priority matter. To mitigate the likely high costs involved, such a record should be capable of supplanting most of the record systems on information releases presently maintained by Agency components. Such a system should permit retrieval of requests for information; actions taken; a record of files researched; documents denied, declassified and sanitized (in both their original and sanitized versions); following actions

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(including appeals, litigation, and coordination with other agencies) and some degree of retrievability of released information by topic.

RECOMMENDATION

9. That the DDCI direct the central review group, proposed in Tab A, to establish a central, comprehensive, retrievable record of all previously classified information released to the public.

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**SECRET**TAB CSTANDARDS FOR CLASSIFICATION AND DECLASSIFICATIONFINDINGS

1. Since 1972, documents have been classified pursuant to EO 11652. Classifying documents is far from exact science. The conscientious classifier must determine, according to the Order, whether the disclosure of information could reasonably be expected to cause: "exceptionally grave damage to the national security" (Top Secret), or "serious damage to the national security (Secret), or "damage to the national security" (Confidential). The Order provides a listing of examples in which it is possible to anticipate damage to the national security, but it is varied and general; it is illustrative not exhaustive. At best classification under the criteria of EO 11652 <sup>3</sup> is a most imprecise exercise involving highly subjective decisions which nearly guarantee inconsistency. The actual way in which the system is used is even less satisfactory, for misclassification is rampant.<sup>21</sup> For example, what classifier, given the pressures of time and the power of precedent, is going to deliberate over the degree of damage to the national security when a quick glance at the classification of a reference or of similar material will provide an answer? The answer is obvious--the decisions of the past are perpetuated and the classification of a vast amount of material is automatically "inherited."<sup>23, 24</sup>

2. In addition to determining the level of classification the CIA classifier must gauge how long the information at hand will require the level of protection he selects. He has three options; to subscribe to the timetable of the General Declassification Study (GDS), to specify a date or an event earlier than the GDS for declassification, or to

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judge that the information requires greater protection than provided by the GDS and exempt it from the operation of the GDS. There are four exemptions, generally referred to as E1, E2, E3, and E4. Even though EO 11652 requires that "the use of the exemption authority shall be kept to the absolute minimum consistent with national security requirements . . ." almost the entire classified product of CIA is routinely exempted, usually under E1 and E2. Accurate application of the exemption authority is further complicated because there is no acceptable and agreed definition of sources and methods within CIA even though it is widely invoked whenever reasons are needed for classifying or denying the release of documents. The absence of an acceptable definition and agreed guidelines for its use is even more surprising in view of the DCI's statutory right to protect sources and methods, and that this right had been upheld in a number of court decisions.

3. From the above it is clear that making a decision on declassification is made more complex because no help has been provided by the original classification. Thus, the reviewing officer has no sure starting point, no way of knowing that the document was classified properly even on the day it was written.

4. The Agency does not apply consistent standards for classification, nor does it have appropriate guidelines for downgrading, sanitizing, declassifying, and releasing information.<sup>21</sup> Almost without exception those involved in reviewing documents for release expressed the need for better guidance, particularly regarding the definition of information which must be kept secret. They are uneasy because they are being

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asked to make decisions without guidelines and without adequate knowledge of what others are doing. The absence of guidelines, combined with decentralized authority, almost guarantees inconsistent decisions concerning the release of information.

5. EO 11652 clearly intends that standards for classification and standards for declassification should be similar and consistent, if not identical. The subjects are given equal treatment in the President's Executive Order. Its language clearly provides for the development of one overall system--one overall set of rules and regulations which safeguard National Security Information from the day it is originated until the day it can safely be released into the public domain. In practice, as we all know, there is practically no linkage between policies and practices for declassification and policies and practices for classification.

#### CONCLUSIONS

6. The automatic downgrading timetable of EO 11652 is by-passed as a result of the Agency's wholesale invocation of the exemption authority. This:

- a. Ensures indefinite continuation of a monumental task if the Agency is to comply with the mandatory 30-year review of all classified documents.
- b. Ensures a continuing full review for declassification of all documents involved in FOIA and Privacy requests, regardless of how innocuous the material may be by the time it is five to ten years old.

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7. Better guidelines for classifying national security and intelligence sources and methods information would enable CIA to better justify the denial from public release of truly classified information. For example, there is no Agency-wide definition of "intelligence sources and methods" even though it is widely used as a primary justification for both classifying information, exempting it from downgrading, and withholding information from public release.

8. The Agency's lack of, now and in the past, of consistent classification standards vastly complicates the establishment of a credible, consistent, and effective system of declassification.

9. Classification and declassification are two sides of the same problem and there should be a direct linkage between the policies and practices of declassification and the policies and practices of classification. Consequently, the Agency should begin development of a single consistent set of standards for classifying and declassifying information. We recognize that this could be a difficult process which might involve a revision of EO 11652 as well as extensive coordination within the Intelligence Community. The major interim step in this direction, which we recommend, is to develop effective guidelines for Agency-wide use for denial or approval of requests to downgrade, declassify, and release information to the public. Development of such guidelines is essential if the Agency is to do a credible job of protecting or releasing, as appropriate, a 30-year collection of files. Furthermore, these guidelines are inextricably linked to the establishment of a credible and consistent set of classification standards.

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RECOMMENDATION

10. That the DDCI direct the central review group, as proposed in Tab A, to develop effective guidelines for Agency-wide use for denial or approval of requests to downgrade, declassify and release information to the public. Additionally, this group should develop a single, consistent set of standards for classifying and declassifying information on intelligence sources and methods.

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TAB D

COMPLIANCE WITH LAW

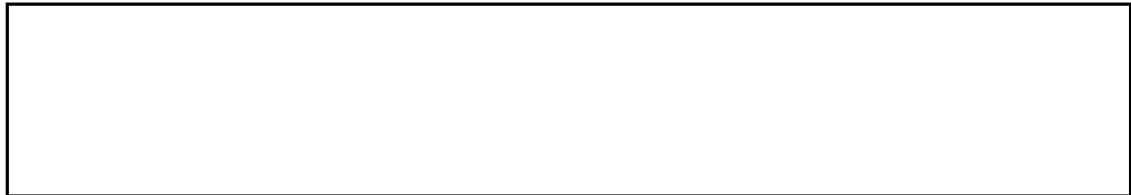
FINDINGS

1. There are three laws and one Executive Order that principally govern the release of information from CIA:

a. The Privacy Act of 1974 governing the release of information held by Federal agencies on U.S. citizens or resident aliens.<sup>2</sup>

b. The amended Freedom of Information Act governing public release of information.<sup>1</sup>

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d. Executive Order 11652, as implemented by NSC Directive of 17 May 1972 on Classification and Declassification of National Security Information and Material.<sup>3</sup>

2. The Agency has:

a. Issued the necessary internal implementing regulations, organizations, and procedures for handling FOIA, PA, and EO 11652 requests as contained in HN [ ] for the Privacy Act,<sup>6</sup> HN [ ] for the FOIA,<sup>5</sup> HR [ ] for FOIA, EO 11652 and for the protection of intelligence sources and methods.<sup>7</sup>

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b. Filed the public notices on CIA records and procedures in the Federal Register required by the Privacy Act and the FOIA.<sup>25</sup>

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c. Issued the required periodic reports to the Privacy Protection Study Commission; the Office of Management and Budget, and the Congress.<sup>9, 26</sup>

d. Responded to public requests for information in accordance with these laws within the present capability of the Agency to handle such requests.

e. Agreed to establish a group to centrally handle the declassification review of 30-year old documents required by EO 11652. This requirement arises as the Agency reaches its 30th anniversary this year.<sup>27</sup>

3. The Agency normally provides an acknowledgement of an FOIA request promptly, but rarely provides the requested documents within the 10 or 20 day limits required by the Act. The volume of requests, the complexity and diversity of Agency files, coordination and review requirements, and the breadth and complexity of many FOIA requests all contribute to the Agency's inability to respond within the required deadlines. This inability to meet these deadlines is well-known and has been reported to requesters and in the Agency's annual reports to Congress. Most requesters have been sympathetic with these delays, but some have filed appeals and suits which have resulted in further delay and expenditure of resources.

4. The NSC Directive which implements EO 11652<sup>3</sup> requires that, insofar as practicable, holders of materials which are downgraded or declassified be notified of this action. When the volume of such

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materials is too great to permit the marking of all copies of downgraded or declassified material, the Directive requires that a record of such actions be kept in the materials' storage unit and that such materials be remarked when withdrawn. Because of the volumes of materials involved and the impossibility of finding and notifying all holders of declassified or downgraded materials, the Agency has not attempted to implement this aspect of the NSC Directive. The lack of such a record results in:

- a. The unnecessary review for declassification and release of documents which have already been declassified.
- b. Decisions to retain the classification of information which had previously been declassified.

CONCLUSIONS

5. The Agency is making a major effort to comply with the letter and spirit of the Privacy Act, the Freedom of Information Act,  and EO 11652 with respect to release of information to the public.

6. The timely response requirements of FOIA make unreasonable demands on the Agency, have caused needless law suits and unfavorable publicity, and provide a means of harassment by those critical of the Agency. Legislative relief from the more demanding response time requirements would allow the Agency to more nearly meet FOIA requirements without greatly increased resources.

7. The EO 11652 requirement to notify every holder of every document that has been downgraded or declassified is impractical.

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We believe, however, that a central record of downgrading and declassification actions is necessary to comply and to permit the use of previous downgrading and declassification actions in the review of information for public release.

RECOMMENDATION

8. That the Legislative Counsel, on an urgent basis, press for legislative relief to provide for more reasonable deadlines for FOIA requests.

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TAB E

THE EFFECT OF INFORMATION RELEASES

FINDINGS

1. We find that opinions vary widely regarding the question of what effect specific and cumulative releases of information about the Agency has had on intelligence capabilities. The evidence is limited to support the opinion that there has been either little or severe adverse effect. Most agree, however, that while there may be positive value in these releases from a policy viewpoint, they have not been beneficial to the conduct of intelligence activities.

2. Many Agency officials believe that the massive public exposure that the Agency has endured during the past two years as a result of official releases, leaks, investigations, and court hearings, has not significantly affected the Agency's capability to collect and produce intelligence. This exposure and the prospects of continued releases of information on Agency activities have had, however, certain specific adverse effects:

a. Certain sources, particularly American businessmen and foreign liaison contacts have lost confidence in the Agency's ability to keep their relationship to the Agency confidential.<sup>28</sup> This has resulted in some sources reducing or terminating their relationship with the Agency. Additionally, the Agency does not know the extent to which potential sources do not contact Agency officers or provide information because of the possibility of exposure.

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b. While the Agency has successfully protected, for the most part, information about specific intelligence sources from public exposure; there has been considerable information on intelligence methodology which hostile intelligence services may find most useful in the future. Much of this has been released because of discrete items of information on intelligence methodology (forms, procedures, regulations, organizational information, etc.) have not stood the test for continued protection when individually considered in isolation from other information. The cumulative value of such is not known because the accumulation of released information on intelligence topics is unexamined--there being no central record of information released on any topic and no central review responsibility.

c. The prospects of public release has made Agency officials more guarded in their written communications. We notice a disinclination to state adverse views on employees, to record allegations of possible misconduct or personnel security concerns for fear that these communications will not be held in confidence and that the originator could be subject to law suits. This issue has even extended to questioning whether information furnished to the Inspector General in confidence or the Inspector General's advice to the Director can be kept confidential.

d. Past releases have noticeably reduced Agency employees' attitudes toward security discipline. There is a disinclination to continue to protect classified information on topics that have

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been widely publicized, particularly since there is little, if any, penalty for the unauthorized release of classified information. The precedence of intelligence matters having been in the public domain--either as leaks, official releases, or press speculation--seems to serve as justification for official release of information that might otherwise have better remained classified on the assumption that the publicity was either harmless or authorized. Some of this can be traced to a lack of a comprehensive, central record of released information which would provide officials with facts about prior releases.

e. Release of information about Agency activities has and would probably continue to help Agency critics continue their efforts to nullify or destroy Agency organizations and capabilities.

f. The resources expended by the Agency in servicing requests for information (conservatively estimated at about 100 man-years and \$1.7 million per year) are resources that are not available for intelligence analysts, operation, management or support activities.<sup>9</sup>

g. There has been at least one significant foreign policy flap over the public release of information on intelligence activities in foreign countries.<sup>29</sup> This served to illustrate the point that foreign intelligence activities, and particularly covert action, do have foreign relations implications and certain releases of information need to be cleared with the Department of State even though they do not directly involve State Department activities or documents.

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3. There are positive effects to the Agency's release of information. We have found these as hard to document as the adverse effects. We further note that certain releases have both a beneficial and an adverse effect. The positive aspects are:

a. The massive release of information about the Agency has increased familiarity and confidence in the Agency's integrity, capability, and competence. In particular, public release of finished intelligence appears to have increased public respect and confidence in the Agency.

b. These releases have helped to allay public concerns that the Agency is a "rogue elephant" independent of Executive authority.

4. We share the view of many in the Agency that, on balance, the adverse effects of official releases described in this study, are clearly outweighed by the damage caused to the Agency's capabilities by unofficial releases of information, including leaks, espionage, and poor security practices.

#### CONCLUSIONS

5. Since the Agency does not have a central record of information released to the public and no one is charged with examining the cumulative effect of information releases, the question of the effect of cumulative releases is moot. However, these releases appear not to have had major and conspicuous adverse effects on intelligence operations or foreign relations so far and may have had some positive public relation's value.

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6. There are, however, serious, long range consequences in store for the Agency's clandestine intelligence activities should release of information on its methodology, capabilities, organization, and personalities and the inability or disinclination to protect this activity from public exposure continue on the same scale as in the past two years. These consequences, while not demonstrable at present beyond the observations in paragraph 2 above, may be avoidable if there are clearer standards set for the future release of information which are in any way related to clandestine intelligence activities. This in no way obviates Congressional or judicial requirements for information related to allegations of wrongdoing, but does suggest that there is room within the present exemptions in the FOIA and Privacy Act for stricter standards.

RECOMMENDATION

7. That the DDCI direct the central review group as proposed in Tab A to develop a stricter policy, within the law, regarding the release of information related to clandestine intelligence activities. Directly related to this task is the development of clearer standards and guidelines for the declassification and release of information on intelligence sources and methods as proposed in Tab C.

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TAB F

REFERENCES IN OIG STUDY OF CIA PUBLIC RELEASE OF INFORMATION

<u>Item</u>	<u>Subject</u>
1.	Public Law 93-502, Freedom of Information Act, as amended in 1974.  Attorney General's Memorandum on the 1974 Amendments to the Freedom of Information Act, February 1975.
2.	Public Law 93-579. Privacy Act of 1974. OMB, Privacy Act Implementation - Guideline and Responsibilities; 9 July 1975.
3.	Executive Order 11652, Classification and Declassification of National Security Information and Material, 10 March 1972.  NSC Directive Governing the Classification, Downgrading, Declassification, and Safeguarding of National Security Information; 17 May 1972.
25X1A 4.	HN [ ] Establishment of Information Review Staff/DDA, 13 January 1975.
25X1A 5.	HN [ ] Agency Implementation of the Amended Freedom of Information Act, 14 February 1975.
25X1A 6.	HN [ ] CIA Implementation of the Privacy Act of 1974, 26 September 1975.
25X1A 7.	HR [ ] Freedom of Information Act and National Security Information, 11 February 1975.
25X1A 8.	Proposed [ ] Freedom of Information Act and Privacy Act Policy and Processing, 28 April 1977.
9.	1975 and 1976 CIA Annual Reports to the Senate on the Freedom of Information Act.
10.	Examples of Demanding FOIA Requests--two OCR memoranda to DDA/IPS, April 1977.
25X1A 11.	HR [ ] Release of Agency Information to Representatives of Public Information Media, 13 July 1965.
25X1A	HN [ ] Public Presentations, 14 October 1975
25X1A	HN [ ] on Appointment of Mr. Hetu as Assistant for Public Affairs to the DCI, 30 March 1977.

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<u>Item</u>	<u>Subject</u>
12.	OTR Briefing Paper on CIA Contacts with Academic and Professional Groups, 25 March 1977.  OTR Report on CIA Public Relations, 7 May 1975.
13.	Miscellaneous DDI Documents on Intelligence Products Released to the Public, DOCEX Program, and Contacts with Academia, Business and Congress.
25X1A 14.	HR [ ] Release or Disclosure of Classified or Unclassified CIA Intelligence Material to the Congress of the United States, 21 October 1969.
25X1A 15.	H [ ] Equal Employment Opportunity Program, 12 June 1973.
25X1A 16.	HN [ ] Nonofficial Publication by Employees and Former Employees, 1 March 1977.
25X1A 17.	[ ] Memo to EAG, "Need for an Agency-level Central Mechanism for Policy Review and Release of Potentially Controversial and Publicity Generating Information," 1 April 1977.
18.	Examples of IPS records on FOIA/PA requests.
19.	Miscellaneous memoranda on the need for information request record systems.
20.	Extract from DDA memorandum, "Status of IG Recommendations Approved by the ADCI," 22 March 1977.
21.	OTR Study, Secrecy vs. Disclosure--A Study in Security Classification.
22.	DDO/ISS Draft Brief on Thirty Year Classification Review, April 1977.
23.	OCR Study on Declassification, 1 June 1976.
24.	Proctor Memorandum on Classification, 2 August 1976.

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<u>Item</u>	<u>Subject</u>
25.	Federal Register Notice on CIA's Proposed Privacy Act Implementation, 28 April 1975.  Federal Register Notice on CIA's FOIA Guidelines, 19 February 1975.  Federal Register Notice on CIA's Amendments of its FOIA Access Rules, 10 February 1977.
26.	CIA's Annual Privacy Act Report to OMB for 1975 and 1976.  CIA's Report to the Privacy Protection Study Commission, 27 December 1976.
27.	DDA Memorandum to the EAG, "Action Plan for the 30-Year Declassification Review Program, 4 April 1977.
25X1A 28.	[redacted] (Example of source reaction to CIA's release of information.)
29.	State Report to CIA on <u>Jornal do Brazil</u> publication of U.S. documents, 3 March 1977.  DDO/PICG memorandum to ADDO, "Recommendations for Change as Result of Publication by <u>Jornal do Brazil</u> of USG Documents," 12 January 1977.
25X1A 30.	HN [redacted] assigning [redacted] as Special Assistant to the DDCI for publications policy and release of information; 26 May 1977.

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- | <u>Item</u> | <u>Subject</u>  |
|-------------|---|
| 25.         | Federal Register Notice on CIA's Proposed Privacy Act Implementation, 28 April 1975.  |
|             | Federal Register Notice on CIA's FOIA Guidelines, 19 February 1975.   |
|             | Federal Register Notice on CIA's Amendments of its FOIA Access Rules, 10 February 1977.   |
| 26.         | CIA's Annual Privacy Act Report to OMB for 1975 and 1976.   |
|             | CIA's Report to the Privacy Protection Study Commission, 27 December 1976.  |
| 27.         | DDA Memorandum to the EAG, "Action Plan for the 30-Year Declassification Review Program, 4 April 1977.  |
| 28.         | <div style="border: 1px solid black; width: 350px; height: 1.2em; display: inline-block;"></div> (Example of source reaction to CIA's release of information.)  |
| 29.         | State Report to CIA on <u>Jornal do Brazil</u> publication of U.S. documents, 3 March 1977.   |
|             | DDO/PICG memorandum to ADDO, "Recommendations for Change as Result of Publication by <u>Jornal do Brazil</u> of USG Documents," 12 January 1977.  |
| 25X1A 30.   | HN <div style="border: 1px solid black; width: 80px; height: 1.2em; display: inline-block;"></div> assigning <div style="border: 1px solid black; width: 150px; height: 1.2em; display: inline-block;"></div> as Special Assistant to the DDCI for publications policy and release of information; 26 May 1977. |

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